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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,160	07/10/2000	Chang-Hoi Koo	678-515(P9466)	9210

28249 7590 02/04/2005  
DILWORTH & BARRESE, LLP  
333 EARLE OVINGTON BLVD.  
UNIONDALE, NY 11553

EXAMINER
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BLOUNT, STEVEN

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/613,160

Applicant(s)

KOO ET AL.

Examiner

Steven Blount

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See detailed action.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1 - 20.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

*Ajit Patel*  
**Ajit Patel**  
**Primary Examiner**

### **DETAILED ACTION**

1. Applicants arguments submitted in the After Final Admendment have been considered, but for the following reasons, withdrawl of the finality of the Office Action and withdrawl of the rejections will not be made.

In the After Final Admendment, applicant states that in the response filed July 1, 2004, an argument was presented that none of the cited references teaches or discloses designating a common channel "by utilizing the designated channel indicating parameters and the action time for designation" and that "This rejection is contained in each of the independent claims."

The examiner has reviewed the response, and notes that no argument was ever made that the references do not teach action time for designation for claims 1, 5, 8, 12 – 15, and 20, though it was challenged that they do not teach it with respect to claims 11 and 16 – 19.

The examiner has reviewed his initial rejection, and notes that it was very clearly pointed out to the applicant where the Tanno (modifying) reference teaches the use of an "action time":

"Tanno teaches sending, from the base station to a mobile unit, information Relating to transmission from the mobile station, on the reverse channel, to the base station, including (in addition to the spreading code) the "action time" as defined in the specification, and discussed above."

In the response, applicant stated, with respect to claim 11 "Chen discloses a method and apparatus for pre-transmission power control using a lower rate for a high

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rate communication.” However, the applicant never addressed the Tanno reference, and in at least this respect, the reply is non-responsive, regardless of how the applicant felt about the propriety of using this reference.

Then, in the After Final Amendment, the applicant argued that the examiner did not mention the action time in the response to arguments portion of the final rejection. In response, the examiner notes that it was stated in the response to arguments that “The data terminal 112 then waits for the assigned time slot and being transmission of the data burst on the R-CBCH.” Also, in cited column 4 lines 21+ of Gutierrez, it is stated that “the base station may reserve multiple slots for the designated mode data burst” (lines 33+).

Further, the applicant, in the After Final remarks stated that the examiner has not replied to the argument made by applicant that “channel indicating parameters” (in addition to action time for designation) are not taught in the references. Once again, the examiner notes that in the response to arguments, it is quoted that “in reserving an R-CBH, the data terminal 112 transmits a designated mode reservation request message to the base station 102 on the R-CBH” such that Gutierrez teaches a common channel which becomes designated as a dedicated channel. This is even more apparent in view of the fact that column 7, lines 10+ were cited in the response to arguments, wherein in lines 20+, it is stated that the base station may initiate designated mode operations. It is further noted that in col 7, lines 10+, data burst is mentioned, and data burst was cited in the response to arguments. Data burst, as mentioned in the abstract and col 7, lines

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1+ (cited) is the method of designating a dedicated channel on the reverse common channel.

In view of the above, the examiner believes that withdrawal of the finality of the previous Office Action and withdrawal of the rejections is not justified.

2. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or, the response may be faxed to: (703) 872-9306.

For formal communications intended for entry, or for informal or draft communications, please label "PROPOSED" OR "DRAFT".

Any inquiry concerning this communication should be directed to Examiner Steven Blount, whose telephone number is (571) 272 – 3071.

Examiner Blount may normally be reached Monday through Friday between the hours of 9:00 and 5:30. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Chau Nguyen, may be reached at 571 – 272 - 1980.

  
Ajit Patel  
Primary Examiner

SB



1/23/04